



# NEW CUSTOMER INFORMATION & CREDIT APPLICATION

Please email completed form to [newcustomer@anderinger.com](mailto:newcustomer@anderinger.com) or fax it to 802-524-8307.

## Company Information

Please check box(es) indicating your role  Bill-To  Importer  Shipper  Other\* (please specify)

Company Type	Year Business Established	Fiscal Year Start Date (MM/YYYY)
Company Name		
Doing Business As (if different)		
Street Address		
Mailing Address (if different)		
City	State/Province	
Zip/Postal Code	Country	
Phone **	Fax	
Website		
Industry Description or SIC		

Bill-to Party Name		
Street Address		
City	State/Province	
Zip/Postal Code	Country	
IRS/SS #** (SS # not allowed for export)	Canadian Business # (if applicable)	
US Customs Bond #	MID # (if applicable)	FDA Reg. # (if applicable)

Please provide the name of your highest-level, parent company  
For which service(s) do you plan to use Deringer (e.g., Customs brokerage, warehousing & distribution, eManifest, etc.)?

How many shipments/movements do you anticipate monthly?
Which US port(s) of entry will you most frequently use?
If you are presently working with a Deringer staff member, please provide their name
Which mode(s) of transportation will you use (i.e., ocean, air, truck, rail)?

## Contact Information

Please provide the names, titles, phone numbers, and email addresses for the contacts listed below. This will allow Deringer to contact the appropriate parties.

### Contact: Logistics (Customs brokerage, warehousing & distribution, transportation)

Please use other contact space below if more than one contact exists for operations.

Name	Title
Email Address	Phone Number

If you are the primary contact, please indicate if you would like to receive important regulatory alerts (e.g., CBP, FDA) via email.  Yes  No

### Contact: Logistics

Name	Title
Email Address	Phone Number

### Other Contact\*\*

Name	Title
Email Address	Phone Number

\*Please check "Other" for consignees, agents, and other parties for customers who are exporting.

\*\*Contact name, phone number, and IRS # required for exporting shippers.

**Invoice/Statement Delivery**

Unless the "No" box is checked, invoices and statement will be delivered to the email address below.  No

Name	Title
Email Address	Phone Number

**Secondary Email Address**

Name	Title
Email Address	Phone Number

Customers can elect to receive one invoice per email or an entire day's shipments within one email. Please indicate your preference below.

One invoice per email  Yes  No

Multiple shipments per email  Yes  No

**Credit Information**

Please ensure that the below information is accurate and complete.

Duns # (if applicable)

Requested Monthly Credit Limit

How much do you anticipate Deringer will outlay on your behalf for freight and/or duty per shipment?

**Bank Reference**

Bank Name

Contact Name

Street Address

Mailing Address (if different)

City	State/Province
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Zip/Postal Code	Country
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Phone	Fax
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**Trade Reference** (please provide information for one vendor with whom you do business)

Company Name

Contact Name

Street Address

Mailing Address (if different)

City	State/Province
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Zip/Postal Code	Country
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Phone	Fax
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**Company Officers**

President/CEO

Vice President

Secretary/Treasurer/CFO

**Comments**

I am a duly authorized representative of the Company, and hereby acknowledge that the above information is true and correct, and agree to the terms and conditions located on the attached documents, including our technology policy as may be applicable, as well as posted on [www.nderinger.com](http://www.nderinger.com).

Signature	Name (please print)
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Title	Phone	Date
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**Terms & Conditions of Service**

These terms and conditions of service constitute a legally binding contract between the "Company" and the "Customer". In the event the Company renders services and issues a document containing Terms and Conditions governing such services, the Terms and Conditions set forth in such other document(s) shall govern those services.

**1. Definitions.**

(a) "Company" shall mean A.N. Deringer, Inc., its subsidiaries, related companies, agents and/or representatives;  
(b) "Customer" shall mean the person for which the Company is rendering service, as well as its agents and/or representatives, including, but not limited to, shippers, importers, exporters, carriers, secured parties, warehousemen, buyers and/or sellers, shipper's agents, insurers and underwriters, break-bulk agents, consignees, etc. It is the responsibility of the Customer to provide notice and copy(s) of these terms and conditions of service to all such agents or representatives;

(c) "Documentation" shall mean all information received directly or indirectly from Customer, whether in paper or electronic form;

(d) "Ocean Transportation Intermediaries" ("OTI") shall include an "ocean freight forwarder" and a "non-vessel operating carrier";

(e) "Third parties" shall include, but not be limited to, the following: "carriers, truckmen, cartmen, lightermen, forwarders, OTIs, customs brokers, agents, warehousemen and others to which the goods are entrusted for transportation, cartage, handling and/or delivery and/or storage or otherwise".

**2. Company as agent.** The Company acts as the "agent" of the Customer for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies: as to all other services, Company acts as an independent contractor.

**3. Limitation of Actions.**

(a) Unless subject to a specific statute or international convention, all claims against the Company for a potential or actual loss, must be made in writing and received by the Company, within ninety (90) days of the event giving rise to claim; the failure to give the Company timely notice shall be a complete defense to any suit or action commenced by Customer.

(b) All suits against Company must be filed and properly served on Company as follows:

(i) For claims arising out of ocean transportation, within one (1) year from the date of the loss;

(ii) For claims arising out of air transportation, within two (2) years from the date of the loss;

(iii) For claims arising out of the preparation and/or submission of an import entry(s), within seventy-five (75) days from the date of liquidation of the entry(s);

(iv) For any and all other claims of any other type, within two (2) years from the date of the loss or damage.

**4. No Liability For The Selection or Services of Third Parties and/or Routes.** Unless services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Company shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment; advice by the Company that a particular person or firm has been selected to render services with respect to the goods, shall not be construed to mean that the Company warrants or represents that such person or firm will render such services nor does Company assume responsibility or liability for any actions(s) and/or inaction(s) of such third parties and/or its agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a third party or the agent of a third party; all claims in connection with the Act of a third party shall be brought solely against such party and/or its agents; in connection with any such claim, the Company shall reasonably cooperate with the Customer, which shall be liable for any charges or costs incurred by the Company.

**5. Quotations Not Binding.** Quotations as to fees, rates of duty, freight charges, insurance premiums or other charges given by the Company to the Customer are for informational purposes only and are subject to change without notice; no quotation shall be binding upon the Company unless the Company in writing agrees to undertake the handling or transportation of the shipment at a specific rate or amount set forth in the quotation and payment arrangements are agreed to between the Company and the Customer.

**6. Reliance On Information Furnished.**

(a) Customer acknowledges that it is required to review all documents and declarations prepared and/or filed with U.S. Customs & Border Protection, other Government Agency and/or third parties, and will immediately advise the Company of any errors, discrepancies, incorrect statements, or omissions on any declaration or other submission filed on Customers behalf;

(b) In preparing and submitting customs entries, export declarations, applications, security filings, documentation and/or other required data, the Company relies on the correctness of all documentation, whether in written or electronic format, and all information furnished by Customer; Customer shall use reasonable care to ensure the correctness of all such information and shall indemnify and hold the Company harmless from any and all claims asserted and/or liability or losses suffered by reason of the Customer's failure to disclose information or any incorrect, incomplete or false statement by the Customer or its agent, representative or contractor upon which the Company reasonably relied. The Customer agrees that the Customer has an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods.

**7. Declaring Higher Value To Third Parties.** Third parties to whom the goods are entrusted may limit liability for loss or damage; the Company will request excess valuation coverage only upon specific written instructions from the Customer, which must agree to pay any charges therefore; in the absence of written instructions or the refusal of the third party to agree to a higher declared value, at Company's discretion, the goods may be tendered to the third party, subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

**8. Insurance.** Unless requested to do so in writing and confirmed to Customer in writing, Company is under no obligation to procure insurance on Customer's behalf; in all cases, Customer shall pay all premiums and costs in connection with procuring requested insurance.

**9. Disclaimers; Limitation of Liability.**

(a) Except as specifically set forth herein, Company makes no express or implied warranties in connection with its services;

(b) In connection with all services performed by the Company, Customer may obtain additional liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefor, which request must be confirmed in writing by the Company prior to rendering services for the covered transaction(s).

(c) In the absence of additional coverage under (b) above, the Company's liability shall be limited to the following:

(i) where the claim arises from activities other than those relating to customs business, \$50.00 per shipment or transaction, or

(ii) where the claim arises from activities relating to "Customs business," \$50.00 per entry or the amount of brokerage fees paid to Company for the entry, whichever is less;

(iii) where the claim arises from activities relating to warehousing services, \$0.50 per pound or \$50.00 per shipment, whichever is less.

(d) In no event shall Company be liable or responsible for consequential, indirect, incidental, statutory or punitive damages, even if it has been put on notice of the possibility of such damages, or for the acts of third parties.

**10. Advancing Money.** All charges must be paid by Customer in advance unless the Company agrees in writing to extend credit to customer; the granting of credit to a Customer in connection with a particular transaction shall not be considered a waiver of this provision by the Company.

**11. Indemnification/Hold Harmless.** The Customer agrees to indemnify, defend, and hold the Company harmless from any claims and/or liability, fines, penalties and/or attorneys' fees arising from the importation or exportation of customers merchandise and/or any conduct of the Customer, including but not limited to the inaccuracy of entry, export or security data supplied by Customer or its agent or representative, which violates any Federal, State and/or other laws, and further agrees to indemnify and hold the Company harmless against any and all liability, loss, damages, costs, claims, penalties, fines and/or expenses, including but not limited to reasonable attorney's fees, which the Company may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against the Company, it shall give notice in writing to the Customer by mail at its address on file with the Company.

**12. C.O.D. or Cash Collect Shipments.** Company shall use reasonable care regarding written instructions relating to "Cash/Collect on Deliver (C.O.D.)" shipments, bank drafts, cashier's and/or certified checks, letter(s) of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for the shipment.

**13. Costs of Collection Open Credit Terms and Conditions.**

(a) Standard terms are N13 days from invoice date.

(b) Customer agrees to pay according to terms and conditions stated herein on invoices issued by the Company, and to advise the Company of any disputed transactions within 30 days of the date of invoice by submitting a written statement via mail or email to [credit@anderinger.com](mailto:credit@anderinger.com) specifying the reasons for the dispute. Failure to notify the Company with respect to improper billing shall constitute a waiver of all such disputes.

(c) The Customer must notify the Company in writing of any change of ownership, the name of the business or structure of the business under which credit is established. The Company reserves the right to cancel its agreement to extend credit, and to re-evaluate credit worthiness of the Customer under its new name, ownership, or structure.

(d) Customer expressly agrees they shall be liable for, and pay all Attorney's fees, collection costs and fees, and other expenses associated with collecting past due amounts payable from the Customer, whether or not incurred as a result of litigation, including, but not limited to attorney's fees and costs resulting from a default under the application.

**14. General Lien and Right To Sell Customer's Property.**

(a) Company shall have a general and continuing lien on any and all property of Customer coming into Company's actual or constructive possession or control for monies owed to Company with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;

(b) Company shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges; Customer shall notify all parties having an interest in its shipment(s) of Company's rights and/or the exercise of such lien.

(c) Unless, within thirty days of receiving notice of lien, Customer posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Company, guaranteeing payment of the monies owed, plus all storage charges accrued or to be accrued, Company shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Customer.

**15. No Duty To Maintain Records For Customer.** Customer acknowledges that pursuant to Sections 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, the Company shall only keep such records that it is required to maintain by Statute(s) and/or Regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

**16. Obtaining Binding Rulings, Filing Protests, etc.** Unless requested by Customer in writing and agreed to by Company in writing, Company shall be under no obligation to undertake any pre- or post Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protests, etc.

**17. Preparation and Issuance of Bills of Lading.** Where Company prepares and/or issues a bill of lading, Company shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc.; unless specifically requested to do so in writing by Customer or its agent and Customer agrees to pay for same, Company shall rely upon and use the cargo weight supplied by Customer.

**18. No Modification or Amendment Unless Written.** These terms and conditions of service may only be modified, altered or amended in writing signed by both Customer and Company; any attempt to unilaterally modify, alter or amend same shall be null and void.

**19. Compensation of Company.** The compensation of the Company for its services shall be included with and is in addition to the rates and charges of all carriers and other agencies selected by the Company to transport and deal with the goods and such compensation shall be exclusive of any brokerage, commissions, dividends, or other revenue received by the Company from carriers, insurers and others in connection with the shipment. On ocean exports, upon request, the Company shall provide a detailed breakout of the components of all charges assessed and a true copy of each pertinent document relating to these charges. In any referral for collection or action against the Customer for monies due the Company, upon recovery by the Company, the Customer shall pay the expenses of collection and/or litigation, including a reasonable attorney fee.

**20. Severability.** In the event any Paragraph(s) and/or portion(s) hereof is found to be invalid and/or unenforceable, then in such event the remainder hereof shall remain in full force and effect. Company's decision to waive any provision herein, either by conduct or otherwise, shall not be deemed to be a further or continuing waiver of such provision or to otherwise waive or invalidate any other provision herein.

**21. Governing Law; Consent to Jurisdiction and Venue.** These terms and conditions of service and the relationship of the parties shall be construed according to the laws of the State of Vermont without giving consideration to principals of conflict of law.

Customer and Company

(a) irrevocably consent to the jurisdiction of the United States District Court and the State courts of Vermont;

(b) agree that any action relating to the services performed by Company, shall only be brought in said courts;

(c) consent to the exercise of in personam jurisdiction by said courts over it, and

(d) further agree that any action to enforce a judgment may be instituted in any jurisdiction.

**22. Surety.** We authorize A.N. Deringer, Inc. to receive all current and historical data provided to the surety by CBP. Terms and Conditions

**Standard Contract Terms and Conditions for Merchandise Warehouses**

*Approved and promulgated by the American Warehouse Association, October 1968. Revised and promulgated by the International Warehouse Logistics Association, January 1998 and November 2008. Reviewed October 2015.*

**ACCEPTANCE – Sec. 1**

- (a) This Contract, including accessorial charges that may be attached hereto, must be accepted within 30 days from the proposal date by signature of DEPOSITOR. In the absence of written acceptance, the act of tendering GOODS described herein for storage or other services by WAREHOUSE within 30 days from the proposal date shall constitute acceptance by DEPOSITOR. DEPOSITOR has had the opportunity to review and inspect the WAREHOUSE facility ("Facility").
- (b) In the event that GOODS tendered for storage or other services do not conform to the description contained herein, or conforming GOODS are tendered after 30 days from the proposal date without prior written acceptance by DEPOSITOR as provided in paragraph (a) of this section, WAREHOUSE may refuse to accept such GOODS. If WAREHOUSE accepts such GOODS, DEPOSITOR agrees to rates and charges as may be assigned and invoiced by WAREHOUSE and to all terms of this Contract.
- (c) Any GOODS accepted by WAREHOUSE shall constitute GOODS under this Contract.
- (d) This Contract may be canceled by either party upon 30 days written notice and is canceled if no storage or other services are performed under this Contract for a period of 180 days.

**SHIPMENTS TO AND FROM WAREHOUSE – Sec. 2**

DEPOSITOR agrees that all GOODS shipped to WAREHOUSE shall identify DEPOSITOR on the bill of lading or other contract of carriage as the named consignee, in care of the WAREHOUSE, and shall not identify WAREHOUSE as the consignee. If, in violation of this Contract, GOODS are shipped to WAREHOUSE as named consignee on the bill of lading or other contract of carriage, DEPOSITOR agrees to immediately notify carrier in writing, with copy of such notice to WAREHOUSE, that WAREHOUSE named as consignee is the "in care of party" only and has no beneficial title or interest in the GOODS. Furthermore, WAREHOUSE shall have the right to refuse such GOODS and shall not be liable for any loss, misconsignment, or damage of any nature to, or related to such GOODS. Whether WAREHOUSE accepts or refuses GOODS shipped in violation of this Section 2, DEPOSITOR agrees to indemnify and hold WAREHOUSE harmless from all claims for transportation, storage, handling and other charges relating to such GOODS, including undercharges, rail demurrage, truck/intermodal detention, and other charges of any nature whatsoever.

**TENDER OF GOODS – Sec. 3**

All GOODS shall be delivered at the Facility properly marked and packaged for storage and handling. The DEPOSITOR shall furnish at or prior to such delivery, a manifest showing marks, brands, or sizes to be kept and accounted for separately, and the class of storage and other services desired.

**STORAGE PERIOD AND CHARGES – Sec. 4**

- (a) Unless otherwise agreed in writing, all charges for storage are per package or other agreed unit per month.
- (b) The storage month begins on the date that WAREHOUSE accepts care, custody and control of the GOODS, regardless of unloading date or date of issue of WAREHOUSE receipt.
- (c) Except as provided in paragraph (d) of this section, a full month's storage charge will apply on all GOODS received between the first and 15th, inclusive, of a calendar month; a half month's storage charge will apply on all GOODS received between the 16th and the last day, inclusive, of a calendar month, and a full month's storage charge will apply to all GOODS in storage on the first day of the next and succeeding calendar months. All storage charges are due and payable on the first day of storage for the initial month and thereafter on the first day of the calendar month.
- (d) When mutually agreed in writing by the WAREHOUSE and the DEPOSITOR, a storage month shall extend from a date in one calendar month to, but not including, the same date of the next and all succeeding months. All storage charges are due and payable on the first day of the storage month.

**TRANSFER, TERMINATION OF STORAGE, REMOVAL OF GOODS – Sec. 5**

- (a) Instructions to transfer GOODS on the books of the WAREHOUSE are not effective until delivered to and accepted by WAREHOUSE, and all charges up to the time of transfer is made are chargeable to the DEPOSITOR. If a transfer involves rehandling the GOODS, such will be subject to a charge. When GOODS in storage are transferred from one party to another through issuance of a new WAREHOUSE receipt, a new storage date is established on the date of transfer.
- (b) The WAREHOUSE reserves the right to move, at its expense, 14 days after notice is sent by certified mail or overnight delivery to the DEPOSITOR, any GOODS in storage from the FACILITY in which they may be stored to any other of WAREHOUSE's Facilities. WAREHOUSE will store the GOODS at, and may without notice move the GOODS within and between, any one or more of the WAREHOUSE buildings which comprise the FACILITY identified on the front of this Contract.
- (c) The WAREHOUSE may, upon written notice of not less than 30 days to the DEPOSITOR and any other person known by the WAREHOUSE to claim an interest in the GOODS, require the removal of any GOODS. Such notice shall be given to the last known place of business of the person to be notified. If GOODS are not removed before the end of the notice period, the WAREHOUSE may sell them in accordance with applicable law.
- (d) If WAREHOUSE in good faith believes that the GOODS are about to deteriorate or decline in value to less than the amount of WAREHOUSE's lien before the end of the 30-day notice period referred to in Section 5(c), the WAREHOUSE may specify in the notification any reasonable shorter time for removal of the GOODS and if the GOODS are not removed, may sell them at public sale held one week after a single advertisement or posting as provided by law.
- (e) If as a result of a quality or condition of the GOODS of which the WAREHOUSE had no notice at the time of deposit the GOODS are a hazard to other property or to the FACILITY or to persons, the WAREHOUSE may sell the GOODS at public or private sale without advertisement on reasonable notification to all person known to claim an interest in the GOODS. If the WAREHOUSE after a reasonable effort is unable to sell the GOODS it may dispose of them in any lawful manner and shall incur no liability by reason of such disposition. Pending such disposition, sale or return of the GOODS, the WAREHOUSE may remove the GOODS from the FACILITY and shall incur no liability by reason of such removal.

**HANDLING – Sec. 6**

- (a) The handling charge covers the ordinary labor involved in receiving GOODS at WAREHOUSE door, placing GOODS in storage, and returning GOODS to WAREHOUSE door. Handling charges are due and payable on receipt of GOODS.
- (b) Unless otherwise agreed in writing, labor for unloading and loading GOODS will be subject to a charge. Additional expenses incurred by the WAREHOUSE in receiving and handling damaged GOODS, and additional expense in unloading from or loading into cars or other vehicles not at WAREHOUSE door will be charged to the DEPOSITOR.
- (c) Labor materials used in loading rail cars or other vehicles are chargeable to the DEPOSITOR.
- (d) When GOODS are ordered out in quantities less than in which received, the WAREHOUSE may make an additional charge for each order or each item of an order.
- (e) The WAREHOUSE shall not be liable for any demurrage or detention, any delays in unloading inbound cars, trailers or other containers, or any delays in obtaining and loading cars, trailers or other containers for outbound shipment unless WAREHOUSE has failed to exercise reasonable care.

**DELIVERY REQUIREMENTS – Sec. 7**

- (a) No GOODS shall be delivered or transferred except upon receipt by the WAREHOUSE of DEPOSITOR's complete written instructions. Written instructions shall include, but are not limited to, FAX, EDI, E-Mail, or similar communication, provided WAREHOUSE has no liability when relying on the information contained in the communication as received. GOODS may be delivered upon instruction by telephone in accordance with DEPOSITOR's prior written authorization, but the WAREHOUSE shall not be responsible for loss or error occasioned thereby.
- (b) When GOODS are ordered out a reasonable time shall be given the WAREHOUSE to carry out instructions, and if it is unable because of acts of God, war, public enemies, seizure under legal process, strikes, lockouts, riots or civil commotions, or any reason beyond the WAREHOUSE's control, or because of loss of or damage to GOODS for which WAREHOUSE is not liable, or because of any other excuse provided by law, the WAREHOUSE shall not be liable for failure to carry out such instructions and GOODS remaining in storage will continue to be subject to regular storage charges.

**EXTRA SERVICES (SPECIAL SERVICES) – Sec. 8**

- (a) WAREHOUSE labor required for services other than ordinary handling and storage will be charged to the DEPOSITOR.
- (b) Special services requested by DEPOSITOR including but not limited to compiling of special stock statements; reporting marked weights, serial numbers or other data from packages; physical check of GOODS; and handling transit billing will be subject to a charge.

- (c) Dunnage, bracing, packing materials or other special supplies, may be provided for the DEPOSITOR at a charge in addition to the WAREHOUSE's cost.
- (d) By prior arrangement, GOODS may be received or delivered during other than usual business hours, subject to a charge.
- (e) Communication expense including postage, overnight delivery, or telephone may be charged to the DEPOSITOR if such concern more than normal inventory reporting or if, at the request of the DEPOSITOR, communications are made by other than regular United States Mail.

**BONDED STORAGE – Sec. 9**

- (a) A charge in addition to regular rates will be made for merchandise in bond.
- (b) Where a WAREHOUSE receipt covers GOODS in U.S. Customs bond, WAREHOUSE shall have no liability for GOODS seized or removed by U.S. Customs.

**MINIMUM CHARGES – Sec. 10**

- (a) A minimum handling charge per lot and a minimum storage charge per lot per month will be made. When a WAREHOUSE receipt covers more than one lot or when a lot is in assortment, a minimum charge per mark, brand, or variety will be made.
- (b) A minimum monthly charge to one account for storage and/or handling will be made. This charge will apply also to each account when one customer has several accounts, each requiring separate records and billing.

**LIABILITY AND LIMITATION OF DAMAGES – Sec. 11**

- (a) WAREHOUSE SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE TO GOODS TENDERED, STORED OR HANDLED HOWEVER CAUSED UNLESS SUCH LOSS OR DAMAGE RESULTED FROM THE FAILURE BY THE WAREHOUSE TO EXERCISE SUCH CARE IN REGARD TO THEM AS A REASONABLY CAREFUL PERSON WOULD EXERCISE UNDER LIKE CIRCUMSTANCES AND WAREHOUSE IS NOT LIABLE FOR DAMAGES WHICH COULD NOT HAVE BEEN AVOIDED BY THE EXERCISE OF SUCH CARE.
- (b) GOODS ARE NOT INSURED BY WAREHOUSE AGAINST LOSS OR DAMAGE HOWEVER CAUSED.
- (c) THE DEPOSITOR DECLARES THAT DAMAGES ARE LIMITED TO \$0.50 PER POUND OR \$50.00 PER SHIPMENT, HOWEVER, THAT SUCH LIABILITY MAY AT THE TIME OF ACCEPTANCE OF THIS CONTRACT AS PROVIDED IN SECTION 1 BE INCREASED UPON DEPOSITOR'S WRITTEN REQUEST ON PART OR ALL OF THE GOODS HEREUNDER IN WHICH EVENT AN ADDITIONAL MONTHLY CHARGE WILL BE MADE BASED UPON SUCH INCREASED VALUATION.
- (d) WHERE LOSS OR DAMAGE OCCURS TO TENDERED, STORED OR HANDLED GOODS, FOR WHICH WAREHOUSE IS NOT LIABLE, THE DEPOSITOR SHALL BE RESPONSIBLE FOR THE COST OF REMOVING AND DISPOSING OF SUCH GOODS AND THE COST OF ANY ENVIRONMENTAL CLEANUP AND SITE REMEDIATION RESULTING FROM THE LOSS OR DAMAGE TO THE GOODS.

**NOTICE OF CLAIM AND FILING OF SUIT – Sec. 12**

- (a) Claims by the DEPOSITOR and all other persons must be presented in writing to the WAREHOUSE within a reasonable time, and in no event any later than the earlier of: (i) 60 days after delivery of the GOODS by the WAREHOUSE or (ii) 60 days after DEPOSITOR is notified by the WAREHOUSE that loss of damage to part or all of the GOODS has occurred.
- (b) No lawsuit or other action may be maintained by the DEPOSITOR or others against the WAREHOUSE for loss or damage to the GOODS unless timely written claim has been given as provided in paragraph (a) of this section and unless such lawsuit or other action is commenced by no later than the earlier of: (i) nine months after date of delivery by the WAREHOUSE or (ii) nine months after DEPOSITOR is notified that the loss or damage to part or all of the GOODS has occurred.
- (c) When GOODS have not been delivered a notice may be given of known loss or damage to the GOODS by mailing of a letter via certified mail or overnight delivery to the DEPOSITOR. Time limitations for presentation of claim in writing and maintaining of action after notice begin on the date of mailing of such notice by WAREHOUSE.

**LIABILITY FOR CONSEQUENTIAL DAMAGES – Sec. 13**

WAREHOUSE shall not be liable for any loss of profit or special, indirect, or consequential damages of any kind.

**LIABILITY FOR MISSHIPMENT – Sec. 14**

If WAREHOUSE negligently misships GOODS, the WAREHOUSE shall pay the reasonable transportation charges incurred to return the misshipped GOODS to the Facility. If the consignee fails to return the GOODS, WAREHOUSE's maximum liability shall be for the lost or damaged GOODS as specified in Section 11 above, and WAREHOUSE shall have no liability for damages due to the consignee's acceptance or use of the GOODS whether such GOODS be those of the DEPOSITOR or another.

**MYSTERIOUS DISAPPEARANCE – Sec. 15**

WAREHOUSE shall be liable for loss of GOODS due to inventory shortage or unexplained or mysterious disappearance of GOODS only if DEPOSITOR establishes such loss occurred because of WAREHOUSE's failure to exercise the care required of WAREHOUSE under Section 11 above. Any presumption of conversion imposed by law shall not apply to such loss and a claim by DEPOSITOR of conversion must be established by affirmative evidence that the WAREHOUSE converted the GOODS to the WAREHOUSE's own use.

**RIGHT TO STORE GOODS - Sec. 16**

DEPOSITOR represents and warrants that DEPOSITOR is lawfully possessed of the GOODS and has the right and authority to store them with WAREHOUSE. DEPOSITOR agrees to indemnify and hold harmless the WAREHOUSE from all loss, cost and expense (including reasonable attorneys' fees) which WAREHOUSE pays or incurs as a result of any dispute or litigation, whether instituted by WAREHOUSE or others, respecting DEPOSITOR's right, title or interest in the GOODS. Such amounts shall be charges in relation to the GOODS and subject to WAREHOUSE's lien.

**ACCURATE INFORMATION – Sec. 17**

DEPOSITOR will provide WAREHOUSE with information concerning the GOODS which is accurate, complete and sufficient to allow WAREHOUSE to comply with all laws and regulations concerning the storage, handling and transporting of the GOODS. DEPOSITOR will indemnify and hold WAREHOUSE harmless from all loss, cost, penalty and expense (including reasonable attorneys' fees) which WAREHOUSE pays or incurs as a result of DEPOSITOR failing to fully discharge this obligation.

**SEVERABILITY and WAIVER – Sec. 18**

- (a) If any provision of this Contract or any application thereof, should be construed or held to be void, invalid or unenforceable, by order, decree or judgment of a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected thereby but shall remain in full force and effect.
- (b) WAREHOUSE's failure to require strict compliance with any provision of this Contract shall not constitute a waiver or estoppel to later demand strict compliance with that or any other provision(s) of this Contract.
- (c) The provisions of this Contract shall be binding upon the heirs, executors, successors and assigns of both DEPOSITOR and WAREHOUSE; contain the sole agreement governing GOODS tendered to the WAREHOUSE; and, cannot be modified except by a writing signed by WAREHOUSE and DEPOSITOR.

**LIEN – Sec. 19**

WAREHOUSE shall have a general WAREHOUSE lien for all lawful charges for storage and preservation of the GOODS; also for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing cooperating, and other charges and expenses in relation to such GOODS, and for the balance on any other accounts that may be due. WAREHOUSE further claims a general WAREHOUSE lien for all such charges, advances and expenses with respect to any other GOODS stored by the DEPOSITOR in any other facility owned or operated by WAREHOUSE. In order to protect its lien, WAREHOUSE reserves the right to require advance payment of all charges prior to shipment of GOODS.

**DOCUMENTS OF TITLE – Sec. 20**

Documents of title, including WAREHOUSE receipts, may be issued either in physical or electronic form at the option of the parties.

**GOVERNING LAW AND JURISDICTION – Sec. 21**

This Contract and the legal relationship between the parties hereto shall be governed by and construed in accordance with the substantive laws of the state where the Facility is located, including Article 7 of the Uniform Commercial Code as ratified in that state, notwithstanding its conflict of laws rules. Any lawsuit or other action involving any dispute, claim, or controversy relating in any way to this Contract shall be brought only in the appropriate state or federal court in the state where the Facility is located.

The parties acknowledge the Limitation of Liability and Damages in Section 11.

### Technology Policy

The following terms and conditions (the "Agreement") govern the access to and use of the eShipPartner® suite of online tools, the electronic data interchange (EDI) services, and any other software and/or services provided by A.N. Deringer, Inc. ("DERINGER") through this website and/or software applications (the "Services") by you ("Subscriber"). By accessing and/or using these Services, Subscriber is agreeing to be bound by these Terms, which constitute a binding legal agreement between Subscriber and DERINGER. By accepting these Terms on behalf of an employer, business, organization or other legal entity, Subscriber represents and warrants that Subscriber has the authority to bind that entity to these Terms.

- 1. Account.**

In order to use the Services, Subscriber must establish, via registration, an account or security key credentials for access to and use of the Services. The right to use the Services is personal to Subscriber and is not transferable to any other person or entity. Subscriber is responsible for all use of Subscriber's Account and or credentials (under any screen name or password) and for ensuring that all use of Subscriber's Account or credentials complies fully with the provisions of this Agreement. Subscriber shall be responsible for protecting the confidentiality of Subscriber's password(s), if any.
- 2. Additional Terms.**

DERINGER shall have the right at any time to change or modify the terms and conditions applicable to Subscriber's use of the Services, or any part thereof, or to impose new conditions, including, but not limited to, adding fees and charges for use. Such changes, modifications, additions or deletions shall be effective immediately upon notice thereof, which may be given by means including, but not limited to, posting on the website, through the Services, or by electronic or conventional mail, or by any other means by which Subscriber obtains notice thereof. Any use of the Services by Subscriber after such notice shall be deemed to constitute acceptance by Subscriber of such changes, modifications or additions.
- 3. Equipment.**

Subscriber shall be responsible for obtaining and maintaining all telephone, computer hardware and other equipment needed for access to and use of the Services and all charges related thereto.

**4. Subscriber Conduct.**

(A) Subscriber shall use the Services for legal and lawful purposes only. Subscriber shall not post or transmit through the Services any material which violates or infringes in any way upon the rights of others, which is illegal, libelous, or otherwise unlawful, which encourages conduct that would constitute a criminal offense, give rise to civil liability or otherwise violate any law, or which, without DERINGER's express prior written approval, contains advertising or any solicitation with respect to products or services. Any conduct by a Subscriber that DERINGER determines in DERINGER's discretion restricts or inhibits any other Subscriber from using or enjoying the Services to any extent will not be permitted. Subscriber shall not use the Services to advertise or perform any commercial solicitation, including, but not limited to, the solicitation of users to become subscribers of other on-line information services competitive with the Services. Subscriber shall not take any action which imposes an unreasonable load on the infrastructure of the Services, interfere with the proper workings of the Services, attempt to decipher, decompile, disassemble or reverse engineer any software comprising or making up the Services or delete or alter any material posted by any other person.

(B) The Services contains copyrighted material, trademarks and other proprietary information, including, but not limited to, text, software, photos, video, and graphics, and the entire contents of the Services are copyrighted as a collective work under the United States copyright laws. DERINGER owns a copyright in the selection, coordination, arrangement and enhancement of such content, as well as in the content original to it. Subscriber may not modify, publish, transmit, participate in the transfer or sale, create derivative works, or in any way exploit, any of the content, in whole or in part. Subscriber may download copyrighted material for Subscriber's personal use only. Except as otherwise expressly permitted under copyright law, no copying, redistribution, retransmission, publication or commercial exploitation of downloaded material will be permitted without the express written permission of DERINGER and the copyright owner. In the event of any permitted copying, redistribution or publication of copyrighted material, no changes in, or deletion of, author attribution, trademark legend or copyright notice shall be made. Subscriber acknowledges that it does not acquire any ownership rights by downloading copyrighted material.

(C) Subscriber shall not upload, post or otherwise make available on the Services (i) any material protected by copyright, trademark or other proprietary right without the express permission of the owner of the copyright, trademark or other proprietary right and the burden of determining that any material is not protected by copyright rests with Subscriber, (ii) any material which is defamatory, abusive, libelous, unlawful, obscene, threatening, harassing, fraudulent or harmful, (iii) a virus or any other harmful component or (iv) contact any other subscriber through unsolicited communications of any kind. Subscriber shall be solely liable for any damage resulting from any infringement of copyrights, proprietary rights, or any other harm resulting from such a submission. By submitting material to any public area of the Services, Subscriber automatically warrants that the owner of such material has expressly granted to DERINGER the royalty-free, perpetual, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate and distribute such material (in whole or in part) worldwide and/or to incorporate it in other works in any form, media or technology now known or hereafter developed for the full term of any copyright that may exist in such material. Subscriber also permits any other subscriber to the Services to access, view, store or reproduce the material for that subscriber's personal use. Subscriber hereby grants DERINGER the right to edit, copy, publish and distribute any material made available on the Services by Subscriber. Subscriber agrees not to use the Services to impersonate another person and all materials uploaded, posted or otherwise made available on the Services by Subscriber shall correctly identify the sender.

(D) The foregoing provisions of Section 5 are for the benefit of DERINGER, its subsidiaries, affiliates and its third party content providers and licensors and each shall have the right to assert and enforce such provisions directly or on its own behalf.

**5. Disclaimer of Warranty; Limitation of Liability.**

(A) SUBSCRIBER EXPRESSLY AGREES THAT USE OF THE SERVICES IS AT SUBSCRIBER'S SOLE RISK AND THAT SUBSCRIBERS SHOULD PERIODICALLY AUDIT ALL CUSTOMS AND OTHER TRADE DATA THAT IS FILED WITH ANY GOVERNMENT AGENCY USING THE SERVICES TO ENSURE IT IS COMPLETE AND ACCURATE. NEITHER DERINGER, ITS AFFILIATES NOR ANY OF THEIR RESPECTIVE EMPLOYEES, AGENTS, THIRD PARTY CONTENT PROVIDERS OR LICENSORS WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DO THEY MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES, OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF ANY INFORMATION, SERVICE, CUSTOMS ENTRY OR OTHER FILING WITH ANY GOVERNMENT AGENCY OR MERCHANDISE PROVIDED THROUGH THE SERVICES.

(B) THE SERVICES IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS AGREEMENT.

(C) THIS DISCLAIMER OF LIABILITY APPLIES TO ANY DAMAGES, INJURY, PENALTY OR LIQUIDATED DAMAGES CAUSED BY OR DUE TO ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, COMMUNICATION LINE FAILURE, THEFT OR DESTRUCTION OR UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF RECORD, WHETHER FOR BREACH OF CONTRACT, TORTIOUS BEHAVIOR, NEGLIGENCE, OR UNDER ANY OTHER CAUSE OF ACTION. SUBSCRIBER SPECIFICALLY ACKNOWLEDGES THAT DERINGER IS NOT LIABLE FOR THE DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER SUBSCRIBERS OR THIRD-PARTIES AND THAT THE RISK OF INJURY FROM THE FOREGOING RESTS ENTIRELY WITH SUBSCRIBER.

(D) IN NO EVENT WILL DERINGER, OR ANY PERSON OR ENTITY INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICES OR THE SERVICES SOFTWARE, BE LIABLE FOR ANY DAMAGES, PENALTIES INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR LIQUIDATED DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICES. SUBSCRIBER HEREBY ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION SHALL APPLY TO ALL CONTENT ON THE SERVICES.

(E) IN ADDITION TO THE TERMS SET FORTH ABOVE NEITHER DERINGER NOR ITS AFFILIATES, INFORMATION PROVIDERS OR CONTENT PARTNERS SHALL BE LIABLE REGARDLESS OF THE CAUSE OR DURATION, FOR ANY ERRORS, INACCURACIES, OMISSIONS, OR OTHER DEFECTS IN, OR UNTIMELINESS OR UNAUTHENTICITY OF, THE INFORMATION CONTAINED WITHIN THE SERVICES, OR FOR ANY DELAY OR INTERRUPTION IN THE TRANSMISSION THEREOF TO THE USER, OR FOR ANY CLAIMS, PENALTIES, LIQUIDATED DAMAGES OR LOSSES ARISING THEREFROM OR OCCASIONED THEREBY. NONE OF THE FOREGOING PARTIES SHALL BE LIABLE FOR ANY THIRD-PARTY CLAIMS OR LOSSES OF ANY NATURE, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, PUNITIVE OR CONSEQUENTIAL DAMAGES. NEITHER, DERINGER, NOR ITS AFFILIATES, INFORMATION PROVIDERS OR CONTENT PARTNERS WARRANT OR GUARANTEE THE TIMELINESS, SEQUENCE, ACCURACY OR COMPLETENESS OF THIS INFORMATION. ADDITIONALLY, THERE ARE NO WARRANTIES AS TO THE RESULTS OBTAINED FROM THE USE OF THE INFORMATION.

**6. Monitoring.**

DERINGER shall have the right, but not the obligation, to monitor the content of the Services, to determine compliance with this Agreement and any operating rules established by DERINGER and to satisfy any law, regulation or authorized government request. DERINGER shall have the right in its sole discretion to edit, refuse to post or remove any material submitted to or posted on the Services. Without limiting the foregoing, DERINGER shall have the right to remove any material that DERINGER, in its sole discretion, finds to be in violation of the provisions hereof or otherwise objectionable.

**7. Indemnification.**

Subscriber agrees to defend, indemnify and hold harmless DERINGER, its affiliates and their respective directors, officers, employees and agents from and against all claims and expenses, penalties or liquidated damages including attorneys' fees, arising out of the use of the Services by Subscriber or Subscriber's Account.

**8. Termination.**

Either DERINGER or Subscriber may terminate this Agreement at any time. Without limiting the foregoing, DERINGER shall have the right to immediately terminate Subscriber's Account in the event of any conduct by Subscriber which DERINGER, in its sole discretion, considers to be unacceptable, or in the event of any breach by Subscriber of this Agreement. The provisions of Sections 5(B), 5(C), 5(D), and 6-12 shall survive termination of this Agreement.

**9. Trademarks.**

DERINGER and the eShipPartner<sup>®</sup> suite of tools and each of their logos are trademarks of A.N. DERINGER, INC. All rights reserved. All other trademarks appearing on the Services are the property of their respective owners.

**10. Third Party Content.**

DERINGER is a distributor of content supplied by third parties and Subscribers. It is the responsibility of Subscriber to audit and evaluate the accuracy, completeness or usefulness of any information, opinion, advice or other content available through the Services. Please seek the advice of professionals, as appropriate, regarding the evaluation of any specific information, opinion, advice or other content.

**11. Miscellaneous.**

This Agreement and any operating rules for the Services established by DERINGER constitute the entire agreement of the parties with respect to the subject matter hereof, and supersede all previous written or oral agreements between the parties with respect to such subject matter. This Agreement shall be construed in accordance with the laws of the State of Vermont, without regard to its conflict of laws rules. No waiver by either party of any breach or default hereunder shall be deemed to be a waiver of any preceding or subsequent breach or default. The section headings used herein are for convenience only and shall not be given any legal import.

**12. Privacy.**

Our customer facing tools are meant to be a service to you. In order to provide you with the best products, excellent information and quality customer service we record a variety of data from your visit to our site. We record your computer's domain name, information indicating which site pages you viewed, the address of the site you came from before visiting our site, and any search terms you used to find our site. We also record your email address if you chose to communicate with us via email. And, should we offer an online survey, we will record any information you provide us in that survey.